



THE INTERIM

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THE INTERIM

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THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

ENERGY AND TELECOMMUNICATIONS COMMITTEE

Committee reschedules Colstrip meeting...The Energy and Telecommunications Interim Committee is headed to Colstrip Oct. 4-5 after rescheduling its September meeting, which was canceled because of the special session. The committee met briefly on Sept. 5 to reschedule the trip. The agenda for the two-day visit remains much the same as was previously announced. The meeting will focus on a discussion about geological carbon sequestration.

Committee members will tour the Colstrip coal-fired power plants and the adjacent Rosebud Mine. Following the tours, the committee will hear from the Big Sky Carbon Sequestration Partnership, the Northern Plains Resource Council, the chief executive officer and general manager of Basin Electric, the National Center for Appropriate Technology, the Montana Board of Oil and Gas, and the Department of Environmental Quality. The Public Service Commission and Department of Commerce Energy Infrastructure Promotion and Development Division will update the committee on other energy-related activities.

There has been a great deal of public interest in the committee's carbon sequestration study. There are three reports that provide an in-depth review of carbon dioxide capture and storage in a format directed at policymakers. Those reports include:

- "Carbon Dioxide Capture and Storage: Summary for Policymakers and Technical Summary"--Intergovernmental Panel on Climate Change, <http://www.ipcc.ch/activity/ccsppm.pdf>.
- "Carbon Capture and Storage: A Regulatory Framework for States"--Interstate Oil and Gas Compact Commission, <http://www.iogcc.state.ok.us/PDFS/CarbonCaptureandStorageReportandSummary.pdf>.
- "The Future of Coal: Options for a Carbon Constrained World"--Massachusetts Institute of Technology http://web.mit.edu/coal/The_Future_of_Coal.pdf.

The Big Sky Carbon Sequestration Partnership has posted a wealth of information that was collected during a conference held at Gallatin Gateway in August. The PowerPoint presentations are available at <http://www.bigskyco2.org/>

The agenda for the October committee meeting and additional committee information can be found at: http://leg.mt.gov/css/committees/interim/2007_2008/energy_telecom/default.asp. For more information contact Sonja Nowakowski at snowakowski@mt.gov or (406) 444-3078.

LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met Aug. 21 and 22. Legislative Audit Division staff issued several reports. One contract audit was also presented to the committee.

Financial Compliance Audit

Montana Water Pollution Control and Drinking Water Revolving Fund Programs, 07-25... The financial audit of the Montana Water Pollution Control and Drinking Water State Revolving Fund Programs is for the fiscal year ended June 30, 2006. The report contains the audited financial statements and accompanying notes for fiscal year 2005-06. An unqualified opinion was issued on the financial statements, which means the reader may rely on the financial information presented. The report contains no recommendations.

Performance Audits

Help America Vote Act and Related Elections Issues, 07P-02... The Help America Vote Act and other election reforms have been underway in Montana since 2002. Election reforms have had a significant effect on voting in Montana. The performance audit findings show that state and county election officials can make further improvements to promote equity and effective administration in elections. Audit recommendations made to the Secretary of State's office include improving internal policies and procedures, training for election workers, coordinating and standardizing procedures among counties, and adopting a more long-term management approach for certain elections issues.

Characteristics of the Population Served at Montana State Hospital, 06P-03... The performance audit report highlights differences between Montana State Hospital public pay and private pay patients. For example, the audit concluded that:

- similar percentages of public and private pay patients are admitted to MSH for the primary types of commitment;
- the length of stay of patients varies;
- private pay patients are younger and are more likely to have been referred from the criminal justice system; and
- public pay patients are readmitted more often.

The report also identifies needed enhancements to reported MSH population information.

How the State of Montana Assures Dependent Eligibility for Health Insurance, 07P-03... The performance audit report recommends that the state implement a system of accountability regarding the eligibility of dependents of state employees for state health insurance. The Department of Administration has limited controls to assure compliance with dependent eligibility criteria for the state's health insurance. The audit identified ineligible dependents in the following categories:

- deceased dependents;

- former spouses;
- married children; and
- children working for an employer offering benefits.

Promoting Proper Forest Practices, 06P-12... Forest practices generally refer to activities related to timber sales. It is important to ensure that forest practices are conducted in ways to protect forest resources. This performance audit report discusses the Department of Natural Resources and Conservation's efforts to promote proper forest practices. Topics discussed include:

- forest practices generally rely upon voluntary compliance with forestry best management practices (BMP);
- DNRC's forest practices controls are comprised of partnerships, education, and BMP audits; and
- DNRC's process for promoting proper forest practices near water achieves similar results as states with more regulatory-based requirements.

In order to strengthen BMP audits, DNRC and the BMP Technical Working Group should expand BMP audit selection criteria.

Prioritizing Forest Fuels Reduction Projects, 06P-13... The Department of Natural Resources and Conservation has a process for prioritizing fuels reduction projects throughout the state resulting in federal grants of over \$9.3 million to local fuels reduction projects. Policy changes at the federal level will require that DNRC change its current prioritization process if it is to remain competitive with other states vying for the same federal fuels reduction funds.

This report provides a recommendation for determining where limited funding resources should be focused to achieve the greatest reduction in risk of catastrophic wildfires. The audit recommends DNRC develop criteria to coordinate and fund statewide fuels reduction activities that:

- focus efforts in areas of greatest risk as identified in regional and statewide fuels assessments;
- incorporate the use of local land-use planning practices and in-house information; and
- require consistency of locally supplied fuels information.

Information System Audit

The Department of Public Health and Human Services – Medicaid Data Review – 07DP-06... The Department of Public Health and Human Services is responsible for managing Medicaid in Montana. DPHHS is responsible for determining who is eligible to receive Medicaid coverage and who is eligible to provide Medicaid covered services. DPHHS uses the Medicaid Management Information System to assist in the administration of

Medicaid. This computer system processes and stores information including Medicaid recipients and providers. The computer system also processes Medicaid claims data.

The information systems audit assessed control weaknesses in the management information system, elevating the risk of potential fraud and misuse of the Medicaid program. The report contains one recommendation for the implementation of more proactive system controls to strengthen the Medicaid environment.

Contract Audit

Montana Medical Legal Panel, 07C-01...This financial audit report contains the results of the audit of the Montana Medical-Legal Panel for the year ended December 31, 2006. The audit was conducted by Henry Fenton, CPA, under contract with the Legislative Audit Division. The report contains an unqualified opinion on the financial statements contained in the report, which means the reader may rely on the financial information presented.

Next meeting scheduled for November...The Legislative Audit Committee is scheduled to meet Nov. 28 and 29 in Room 152 of the Capitol building.

FIRE SUPPRESSION COMMITTEE

Cold weather, hot topic...As soon as the jet stream, El Nino (or his sister), and the National Weather Service conspire to bring Montana the weather event that fire managers have been looking forward to since early July, the 2007 wildfire season will be history. Once snow begins to dust the high country, policymakers serving on the Fire Suppression Committee will be gearing up to study land and fire management policies and fire suppression in Montana and examine what happened during the 2007 season, how it happened, why it happened, and how the state should be paying for what will likely happen again in fire seasons to come.

A study is born...House Bill 1, enacted during the September special session, creates the Fire Suppression Committee and requires it to conduct a study that includes:

- an investigation of firefighting operations in Montana, including operations on tribal land and private land, by the state and federal governments and the management policies affecting the success of those operations;
- an investigation of the efficient use of fire suppression resources, including equipment and firefighters;
- an investigation of impacts of operations on private land and on the effective use of private resources to fight fires; and

- an investigation of state and federal forest management policies and how those policies may contribute to an increased number of wildfires, greater safety risk to firefighters, or compromised effectiveness of fire suppression efforts.

HB 1 contains a \$200,000 appropriation for conducting the study and directs the committee to hold meetings in Hamilton, Thompson Falls, Libby, Lewistown, and Miles City.

Not starting from scratch...As a first step in the process, committee staff will be collecting and sending to members reports generated from the significant amount of work that has already been done by Legislative Audit, Fiscal, and Services Division staff on various aspects of wildland fire. A number of audit division reports address the topic, including a December 2004 performance audit of wildland fire administration at the Department of Natural Resources and Conservation.

The audit report, which is referenced in HB 1, contains 27 recommendations for improving wildland fire administration at the state level. The report also resulted in the drafting of HJR 10, passed by the 2005 Legislature, calling for a study to "develop, consolidate, and update fire-related statutes ... to address dangerous environmental conditions and areas of wildland/urban interface, to improve wildland fire suppression and mitigation, and to recommend legislation to appropriately fund wildland fire protection and suppression costs." The HJR 10 study concluded with a final report and recommendations in the form of several bill drafts, all of which were enacted in one form or another by the 2007 Legislature.

Despite the best efforts of all who participated in the HJR 10 study, the wildland-urban interface and appropriate funding of fire protection and suppression costs remain complex policy areas in need of further examination. These subjects will undoubtedly make their way onto the committee's agendas, in addition to those specifically listed in HB 1.

Members and staff...Committee members are: Sens. John Cobb, Rick Laible, Dave Lewis, Carol Williams, Gerald Pease, and Ken Hansen and Reps. Rick Ripley, Chas Vincent, Roger Koopman, Jim Keane, Steve Bolstad, and Bill Wilson.

Legislative Services Division committee staff include Leanne Heisel (lheisel@mt.gov; (406) 444-3593) and Todd Everts (teverts@mt.gov; (406) 444-3747). Legislative Fiscal Division staff is Barb Smith (basmith@mt.gov; (406) 444-5347).

Website development in progress...A first meeting date had not yet been determined by mid-September, but a committee website--to be operational by the end of September--will provide meeting details as well as an opportunity to sign up to receive electronic notices of committee activities. Access to the committee's website will be through the Legislative Services Division homepage at

www.leg.mt.gov/css/default.asp.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Health reassessment program and public employee retirement systems under review...The State Administration and Veterans' Affairs Interim Committee will meet Friday and Saturday, Oct. 19 and 20 in Room 102 of Capitol. The committee is scheduled to begin at 8:30 a.m. each day.

On Friday, the committee will review the Post-Deployment Health Reassessment Program and the report and recommendations of the PDHRA Task Force. Testifying on the program are Lt. Col. Scott Smith of the Montana National Guard; Joe Foster, administrator, Veterans' Affairs Division, Montana Department of Military Affairs; Maj. Gen. Randall Mosley, director, DMA; Joyce DeCunzo, administrator, Department of Public Health and Human Services; and Sheena Wilson, deputy chief of staff in the governor's office. The public will have an opportunity to comment on the health reassessment program and report.

On Saturday, the committee will review various aspects of the state's public employee retirement plans. A number of stakeholders will provide their insights and advice regarding the retirement systems, including: Roxanne Minnehan, executive director of the Public Employees' Retirement Administration; David Senn, executive director of the Teachers' Retirement System; Carroll South, executive director of the Board of Investments; Quentin Nyman, executive director of the Montana Public Employees' Association; Bob Vogel, School Boards' Association; and Charlotte Thomas, Retired Teachers Association. The committee will provide time for public comment as well.

Speaking of unfunded liabilities...According to Roxanne Minnehan, Mark Johnson of Milliman Consultants and Actuaries reported on the preliminary results of the 2007 actuarial valuations of the public retirement systems at the Sept. 13 meeting of the Public Employee Retirement Board. The actuary concluded that all the systems administered by the board are actuarially sound. Johnson's report stated:

Generally, the retirement systems are in better financial condition than one year ago. The primary reasons are (1) the better than anticipated investment returns for the 2006-2007 fiscal year, (2) the additional recognition of investment gains from the prior two years, and (3) the statutory amendments for MPERS, SRS and GWPORS that either increased contributions, reduced future post-retirement escalations for new members, or both."

Minnehan noted that each system had investment gains from 2005 - 2006. Four of the systems have an amortization period of approximately 20 years, which in Johnson's opinion is a secure place to be. The JRS has an actuarial surplus which, if the current actuarial assumptions are met, will continue to grow. The funded ratios and amortization periods for all systems are shown below:

Retirement System	Funded Ratio	Amortization Period (years)
PERS-DBRP	91%	21.9
MPORS	64%	20.5
GWPORS	94%	11.3
SRS	97%	19.6
JRS	157%	Actuarial Surplus
HPORS	75%	19.1
FURS	70%	12.9
VFCA	82%	5.1

Carroll South reported that fiscal year 2007 was a good year for state pension fund investments. The average return for the nine state defined-benefit pension plans for the year was 17.95 percent, driven primarily by the equity markets. Domestic stock returned 19.53 percent, international stock returned 31.57 percent, and private equity returned 23.46 percent. South said that the equity markets have taken some of the gains back during the first two months of fiscal year 2008; however this occurred before the Federal Reserve's 50-basis point reduction in the federal funds rate (the rate banks charge each other to borrow money overnight) and the substantial gains in the equity markets in the next two days.

The committee will continue to assess the health of the retirement system throughout the remainder of the interim.

Meeting material to be available electronically...A tentative agenda for the October meeting will be posted on the committee's webpage and may be updated as the meeting date approaches.

Please direct questions to Dave Bohyer, committee staff at dbohyer@mt.gov or (406) 444-3064, or to the Committee's presiding officer, Rep. Franke Wilmer, at (406) 599-3619.

HJR 46 Work Group Continues Mail Ballot Election Review...

The work group examining changes to Montana's election laws is continuing to review the use of expanded mail ballot elections. At its Aug. 30 meeting, the group raised a number of questions needing further research, including:

- mail delivery of ballots and the rate of ballots that are returned as undeliverable by the U.S. Postal Service;
- whether trends in voter participation in the only all-mail ballot election state, Oregon, have changed significantly, based on the voting age population and not just the number of registered voters;
- the level of participation among minorities, the low-income, and people who tend to move frequently, live in multi-unit housing such as dorms or nursing homes, or do not have mailing addresses; and
- accessibility issues for voters with disabilities.

The group will continue reviewing these and other issues--including the experiences of Montana cities conducting their elections only by mail this fall--before determining what recommendation, if any, it may make on expanded use of mail ballot elections.

Summaries of the group's discussions to date are available by clicking on the HJR 46 study link on the State Administration and Veterans' Affairs Interim Committee website, www.leg.mt.gov/css/committees/interim/2007_2008/st_admin_vet_affairs/default.asp.

The group includes representatives of the Secretary of State's Office, which supervises the administration of elections in Montana; county clerks and recorders, who administer non-school elections at the local level; the Montana School Boards Association; the Montana Association of School Business Officials; the Office of Public Instruction; and other interested groups, including the League of Women Voters, the League of Cities and Towns, the Montana Association of Counties, AARP, Montana Advocacy Project, Montana Conservation Voters, and Montana Women Vote.

For more information on the study, please contact Sue O'Connell at (406) 444-3597 or soconnell@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

Finance committee meets in October...The Legislative Finance Committee will meet Tuesday, Oct. 9 and Wednesday Oct. 10 in Room 102 of the Capitol, beginning at 1 p.m. on Tuesday and 8 a.m. on Wednesday. The agenda and various reports will be available before the meeting on the Legislative Fiscal Division (LFD) website at <http://www.leg.mt.gov/css/fiscal/lfc.asp>. For more information about the meeting, contact Clayton Schenck for further information at cschenck@mt.gov or (406) 444-2986.

The two day meeting tentatively includes the following topics:

- FY 2007 general fund status report
- May 2007 special session fiscal policy triggers
- Fiscal consideration of the long-term Capitol complex development plan
- Update on the retirement system unfunded liability
- Overview of the workers' compensation system
- State fund budget proposal
- Update on information technology management
- Update on costs of the 2007 wildfire season
- Department of Corrections supplemental revision/fiscal impacts
- Scope of the project to study budget and appropriations process
- Programs included in the performance management study
- Project status of LFD products and services

Performance management workgroups to meet in conjunction with meeting...The performance management initiative began last interim by the Legislative Finance

Committee continues. Each of the five performance management workgroups appointed at the June LFC meeting will meet from 10 a.m. to noon on Oct. 9 to discuss the goals, objectives, and status of the selected agency programs under their respective section (A through E). The programs subject to review over the interim have been selected through negotiations with the agencies.

ENVIRONMENTAL QUALITY COUNCIL

Climate change...The Environmental Quality Council hashed over a varied menu of climate change issues for nearly four hours at its September meeting. Headlining the meeting were four climate experts, including:

- Joseph Caprio, a retired Montana State University professor who specialized in agricultural climatology and served as the state climatologist for 15 years;
- Phillip Farnes, a retired Soil Conservation Service civil engineer from Bozeman who has studied snowpack for more than 40 years;
- Steven Running, a University of Montana ecology professor and one of the authors of an international study of climate change; and
- James Taylor, the managing editor of Environment and Climate News for the Heartland Institute, a Chicago research and education organization.

After presentations, EQC members peppered panelists with questions. The discussion was the first step in the study of climate change issues the EQC approved in June. At the end of the meeting, the council decided that in January, it would review the report and legislative suggestions from the Montana Climate Change Advisory Committee, which was appointed by the governor.

Study of conservation easements on state trust land...The EQC also moved ahead on its other study (HJR 57), which examines whether to expand the authority of the Land Board to grant conservation easements on state trust land. In January, the council will hear from several interested parties, including representatives of land trusts, logging and multiple use advocates.

Fuel tank cleanup...Terry Wadsworth, director of the Petroleum Tank Release Compensation Board advised the EQC that claim reimbursements for cleaning up leaking fuel tanks continues to exceed revenue.

Next meeting in January...The next meeting of the EQC is Jan. 14 and 15 in Helena. For more information about the EQC, contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

STATE-TRIBAL RELATIONS COMMITTEE

On the road...The State-Tribal Relations Committee plans to meet with tribal leaders at Crow Agency on Oct. 16-17 to discuss topics of concern for the Crow Reservation. Among the topics that may be considered are: gambling on tribal lands, water adjudication, racial profiling by law enforcement, and health services.

An agenda will be posted on the committee webpage after the meeting dates have been confirmed.

For more information, contact Pat Murdo, committee staff, at (406) 444-3594 or pmurdo@mt.gov.

REVENUE AND TRANSPORTATION COMMITTEE

Election of officers...The Revenue and Transportation Committee met Sept. 19 in Helena. Sen. Jim Peterson was elected chair and Sen. Kim Gillan was elected vice chair. Other committee members are Reps. Tim Furey, Galen Hollenbaugh, Mike Jopek, Bob Lake, Penny Morgan, and Jon Sonju and Sens. Jim Elliott, Jeff Essmann, Christine Kaufmann, and Bob Story.

State general fund in good shape...Terry Johnson, Legislative Fiscal Division, reported on the preliminary status of the state general fund for fiscal year 2007. The ending fund balance was \$543.5 million, or \$84.6 million higher than projected. Higher revenue collections and lower disbursements accounted for most of the increase in the general fund balance. Individual income taxes, corporation license taxes, and oil and natural gas production taxes accounted for most of the \$61.2 million of higher revenue, while total reversions were about \$31 more than budgeted. Other adjustments reduced the general fund balance by \$7.6 million.

Before the September special session dealing with wildfire costs, the 2009 biennium general fund ending fund balance was projected to be \$207.3 million, or \$23.5 million more than expected after the May special session. The change is due to the higher FY 2007 ending fund balance with adjustments for the \$30 million HB 2 appropriation to public schools and the HB 9 property tax credit triggers being met and by other minor adjustments (see the September issue of *The Interim* for prior coverage of the triggers).

The September special session provided additional resources for fighting wildfires. As a result, the general fund balance at the end of the 2009 biennium is projected to be \$125 million.

Committee requests legal opinion on triggers...HB 9, enacted during the May special session, provided for a \$400 property tax rebate and an individual income tax credit for a portion of school equalization property taxes assessed against the principal residence owned by the taxpayer. This trigger is based on FY 2007 unaudited general fund revenue

exceeding \$1.802 billion under generally accepted accounting principles. The Department of Administration certified FY 2007 unaudited general fund revenue of \$1.838 billion. Johnson told the committee that this amount includes an accounting error discovered after the records were closed and transfers (e.g., liquor profits) into the general fund that are not considered general fund revenue under generally accepted accounting principles. Had these and other items not been included the trigger would not have been met.

The committee asked its staff attorney for a legal opinion on whether the amount certified by DOA was determined according to the provisions of HB 9. HB 9 directs the committee to determine if a change in the relief multiple used to calculate the credit is justified, based upon actual and projected revenue and spending and any other appropriate factors. If nothing else, the legal opinion will help the committee evaluate the trigger provision of HB 9 and whether the law should be clarified. The opinion will also examine the HB 2 trigger.

Study subcommittees to be appointed...HB 488 requires that the committee review the reappraisal of agricultural land, residential and commercial land, and improvements, and forest land the values of which go into effect in tax year 2009. The committee is also required to consider mitigation strategies to deal with changes in valuation. Jeff Martin, committee staff, discussed property tax limitation trends presented by Prof. Andrew Reschovsky (*Got Reform? Property Taxpayers Seek Solutions*) at the annual meeting of the National Conference of State Legislatures in August. Randy Wilke, Department of Revenue, present an overview of how the department revalues real property subject to cyclical reappraisal.

SJR 31, requests a study of property taxation and school funding. In part, the study would look at some of the provisions contained in SB 554, introduced by Sen. Jeff Essmann in the 2007 regular session. Martin presented a summary of the legislation.

The committee decided to form subcommittees to deal with these two studies. Sen. Peterson and Sen. Gillan will decide, based on committee member preferences, who will serve on each of the subcommittees.

The committee also requested a panel discussion of state conformity with federal income tax laws related to the HJR 61 study of the linkage of state and federal tax laws.

Department of Revenue reports...Dan Bucks, director of the Department of Revenue, discussed the status of the \$400 property tax rebate. He said that online filing for the rebate speeds the payment of the rebate and reduces administrative costs and that some of the rebates were used to offset debt to the state.

Bucks told the committee that taxpayers may qualify for tax relief for property destroyed by wildfire. He also talked about significant department litigation, the agreement with the Multistate Tax Commission on the abusive tax shelter voluntary compliance program, applications for additional restaurant beer and wine licenses, and the department's

response to a letter from the Montana CPAs regarding tax administration and taxpayer services.

Department of Transportation reports...Jim Lynch, director of Department of Transportation, reported on several highway safety topics. He said that nine bridges with similar design characteristics as the bridge that collapsed in Minneapolis in August were found to be safe. Bridges in Montana are inspected every two years or more often if problems are found.

An article in USA Today earlier this summer reported that Montana had the deadliest roads in the country with 2.3 fatalities per 100 million vehicle miles traveled, while Massachusetts had the lowest death rate of 0.8. Lynch said the factors leading to a higher death rate in Montana are not adequately accounted for in such a simple comparison. For example, Montanans drive more frequently and at higher speeds on rural roads than do drivers in more urban states, and rural accidents are not discovered as soon as those in other areas. A telling factor is that it may take almost 2 hours to get a traffic accident victim in a rural area in Montana to medical services compared to 15 minutes in Massachusetts.

Lynch also talked about highway safety programs, including efforts to increase the use of seat belts and efforts to reduce drunk driving. The department has been working with tribal governments to improve highway safety on reservations.

Lynch also discussed the federal highway trust fund and the problems of higher costs on highway construction projects.

Next meeting in December...The committee and subcommittees will meet Dec. 6 and 7 in Helena. Agendas for the meetings will be available around the middle of November. It is possible that one or both subcommittees will meet before December. Adequate public notice will be provided if the subcommittees meet earlier.

Committee adopts meeting schedule--get in the loop
...The committee adopted a meeting schedule for the rest of the interim. The schedule can be found on the committee's webpage.

Interested parties are reminded that they can sign up for electronic notification of committee meetings, agendas, staff reports, minutes, and other information by going to the committee's webpage and following the link to the email subscription page. As always, hard copies of meeting agendas will be mailed to people who prefer that method.

For more information about the committee, please contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov, or Fong Hom, committee secretary, at (406) 444-0502 or fhom@mt.gov. Lee Heiman is the staff attorney and can be reached at (406) 444-4022 or lheiman@mt.gov.

LEGISLATIVE COUNCIL

September meeting...The Legislative Council met on Sept. 25 and 26. Tuesday morning the council considered the \$200,000 appropriation for a mental health study, reviewed policies on requests for additional interim committee funding and the funding of legislator participation in National Conference of State Legislatures and Council on State Governments meetings, and discussed appointments to two interstate committees. The council devoted the rest of its time to strategic planning.

The results of the public meeting and strategic planning will be posted to the council webpage and will be reported in next month's interim newsletter. For more information contact Susan Byorth Fox, (406) 444-3066, sfox@mt.gov.

Revised rates for lodging...As of Oct. 1, 2007, the standard federal lodging rate will increase to \$70 a night. The new rate will be effective for all cities and counties within Montana. Lodging rates are higher in the Big Sky and West Yellowstone area, Butte/Silverbow, Helena, and the Missoula, Polson, and Kalispell area (or other locations in the counties in which these cities are located).

Seasonal rates for these areas can be found on the Department of Administration website at doa.mt.gov (under state travel information) or the federal General Services Administration website at gsa.gov (follow the "Per Diem" link under Travel Resources).

The \$70 rate also applies to out-of-state locations that are not considered high-cost. A legislator who does not show that the state rate is not available may be responsible for any charges over the allowable rate.

It is important that a legislator traveling on legislative business request the "state" rate (which may differ from "federal" or "government" rates). Many hotels limit the number of rooms that they will provide at a state rate; legislators should find a location willing to accept the state rate. For more information about lodging rates call Jennifer Simmons in financial services, Legislative Services Division at (406) 444-9542.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee and subcommittees meet in September...The Education and Local Government Interim Committee met on Sept. 25. The subcommittees met in the morning and the full committee in the afternoon.

The K-12 subcommittee considered the following topics:

- the voting status of ex-officio subcommittee members;
- a pre-K education conference held in Salt Lake City;
- the facilities inventory conducted by the Department

- of Administration;
- the Oregon funding of small/remote school disparities through its school funding formula;
- effects of teacher licensure requirements on ability to recruit in certain areas

The Postsecondary Education Policy and Budget subcommittee considered the following topics:

- HJR 22 Interim Study of dental education;
- shared policy goals;
- accountability measures reports;
- funding formula revisions for university educational units;
- Bitterroot Valley Community College District;
- P-20 policy and budget issues review;
- two-year education strategic role;
- 2011 biennium budget and accountability;
- History of Two-year Education in Montana; and
- MUS strategic plan for two-year education.

The full ELG committee considered the following topics:

- review of "529 College Savings" plans;
- review of state school appropriations for FY08 and FY09;
- the May 2007 Board of Public Education ruling on distance learning policy; and
- review of the Treasure State Endowment Program distribution of funds and implementation of HB 512.

HB 49 subcommittee meets early October...The subcommittee appointed to conduct the HB 49 study of local government special purpose districts meets on Oct. 2 in Room 102 of the Capitol.

Next month's issue of the interim newsletter will provide coverage of the meetings.

For more information about the Education and Local Government Committee, contact Casey Barrs at (406) 444-3957 or cbarrs@mt.gov.

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REDUCING ROADKILL: STUDIES AROUND MONTANA PIN DOWN WHERE WILDLIFE CROSS THE ROAD AND WAYS TO CURB COLLISIONS

Sonja Nowakowski, Legislative Research Analyst
Legislative Services Division

WHERE CARS AND WILDLIFE COLLIDE

We may not know why the white-tail crossed the road, but in Montana we are learning where the deer opts to rendezvous with the roadway and even how to make it a safer trip.

As you travel down Montana's increasingly busy two- and four-lane highways, the roadkill count can be astonishing. Little known, however, is that in Montana researchers are pioneering new ways to curb wildlife collisions. Along particular patches of roadway, thousands of dollars are being spent tracking exactly what creatures cross the road and where. Cameras and even heat sensors have popped up in areas to find out if in the future installing bridges, underpasses, culverts, or fences might help animals safely cross.

In Lewistown an abandoned area of the airport is home to horses and llamas that are serving as wildlife decoys for crossing sensors. Highway projects already underway in some areas of western Montana also are incorporating large and even little aspects to accommodate critters trying to cross.

Nationally, about 300,000 vehicles are reported damaged annually by collisions with wildlife and domestic animals, according to federal safety information. Based on traffic flows, Montana, not surprisingly, has one of the highest collision rates with deer. In 2005 in Montana, five people were killed and 123 injured out of 1,866 recorded wildlife-vehicle collisions, according to the Montana Highway Patrol. That number increased in 2006 with 2,032 collisions, including four fatalities and 148 injuries.¹

An estimated 90 percent of all wildlife-vehicle collisions involve deer, according to the Western Transportation Institute at Montana State University. The Institute estimates that each deer-vehicle collision results in an average \$8,000 in damage, with injuries driving that average. When injuries aren't involved, insurance experts peg the price of collision at about \$2,000 a pop. The Insurance Institute for Highway Safety estimates the number of collisions is much higher than those reported and recorded in federal safety information. The Insurance Institute estimates there are 1.5 million deer-related traffic accidents in the U.S. each year,

resulting in \$1.1 billion in vehicle damages.²

ROADKILL RESEARCH

Most agree that animal-vehicle collisions and highway fragmentation of habitat raise concerns about safety and conservation. In the past, however, there has been a limited amount of information on the costs and benefits of taking steps to reduce such collisions. But Montana is leading the way in learning how best to curb the carnage along some area roadways.

The Western Transportation Institute, part of Montana State University's College of Engineering, is dedicating time to learning more about reducing roadkill. Researchers are experimenting with detection systems along some Montana highways and conducting studies in the U.S. and Canada. In some areas, microwave radio signals, ground-vibration systems, and electric beams are being used to detect animals that approach roadways. In other areas tracks in sand beds and snow are being monitored to pin down animal movements along roadways.

"We are definitely among the leading places in North America when it comes to road ecology," said Marcel Huijser, a research ecologist with the Western Transportation Institute.³

Currently, the Institute is not involved in a statewide effort to identify or prioritize road sections for potential wildlife crossing projects. But the Institute is assisting the Montana Department of Transportation in studying the issue to help the department make decisions about mitigating animal-vehicle collisions. A report was released in May. In the "Toolbox for the Montana Department of Transportation" researchers reviewed 39 mitigation measures that provide habitat connectivity for wildlife and aim to reduce roadkill. The report focuses on steps that can reduce collisions with larger animals, like deer. Researchers with the Western Transportation Institute also are wrapping up a comprehensive Federal Highway Administration study on the subject.

As researchers conduct studies, the costs and benefits of mitigation measures are outlined. Based on the researchers' work, animal detection systems and wildlife fencing appear to be the most effective in reducing collisions. Long bridges and tunnels are costly and aren't likely to be constructed simply in an effort to reduce collisions, according to the report. However, large projects, like bridges and underpasses, have a life span of about 75 years. Fencing can last about 25 years. These factors need to be considered when it comes to calculating a bottom line,

² *Deer Vehicle Collisions: No easy solutions but some methods work or show progress*, Insurance Institute for Highway Safety, 2003.

³ Interview with Marcel Huijser, research ecologist, Western Transportation Institute, July 2007.

¹ Montana Highway Patrol Annual Report 2006, Montana Highway Patrol Annual Report 2007.

according to the experts.⁴

HIGHWAY LABORATORY

One of the larger wildlife crossing studies in Montana, and even the nation, is being completed along Montana's Highway 93. A 56-mile stretch from Evaro to Polson accommodates not only a burgeoning number of vehicles but also wildlife ranging from grizzlies to turtles.

In April 2006, the first phase of construction started on this part of Highway 93, with the second phase wrapping up this year. The bridges will serve as wildlife crossings. The Confederated Salish and Kootenai Tribes, Federal Highway Administration, and the Montana Department of Transportation are involved in the road project. Improvements are being made to increase the capacity and safety of the roadway, and included are 42 fish and wildlife crossing structures and nearly 15 miles of wildlife-proof fencing. It's an investment of more than \$9 million.⁵

"It definitely brings Montana into the forefront of what has been done worldwide," Huijser said. "It will be one of the largest concentrations of crossings in the world."

Researchers spent several years finding out where to place the structures and what types of structures would be useful. When construction wraps up, a follow-up study is being proposed to document the effectiveness of the measures. The evaluation is expected to provide pivotal information for future wildlife-highway mitigation plans and to guide the MDT in improvements to other areas.

"The research conducted on this road will not just provide insight into what is happening here, but will help to guide future decisions," Huijser said.

Projects similar in size have been done in south Florida, along Interstate 75, better known as Alligator Alley and in Banff National Park in Canada where as the Trans-Canada Highway is expanded to four-lanes, several dozen wildlife structures have been built. Highway 93 is unique in that it is a roadway with an immense variety of wildlife as well as a great deal of human activity.

The various research projects aim to find out how mitigation measures, like fences or overpasses reduce collisions. The costs of wildlife collisions are considered in conjunction with the cost of constructing mitigation measures.

"Then we can evaluate whether or not mitigation measures are worth it from an economic perspective," Huijser said.

"We can find out if mitigation measures help society save money."

Additional efforts along the southern portion of Highway 93, from Lolo to Hamilton, also are underway. Several wildlife crossing structures have been designed and many already implemented, according to the MDT. That roadway could accommodate 31 crossings, ranging from culverts to game trails under bridges.

BANFF BEARS, LEWISTOWN LLAMAS

But it's not just about saving money and reducing collisions. The work also ties into efforts to safeguard wildlife habitat and populations.

In Banff National Park researchers are collecting grizzly hair snagged on fences and structures where bears cross the roadways. The DNA in each hair is then analyzed. Studies at the 24 wildlife crossings in Banff have noted more than 50,000 passes by 10 species of large mammals.⁶ The DNA study will illustrate how those crossings do or do not assist in terms of aiding overall grizzly populations.

Another groundbreaking study is being done in Yellowstone National Park on Highway 191. The project is being funded in part by 15 different state departments of transportation, including Montana. Radio signals detect an animal in the area activating warning signs that blink and alert drivers to the presence of an animal. Based on research out of Switzerland, the detection systems, which use microwave radio signals between receivers and transmitters that sense when an animal blocks or reduces the beam's signal, has shown an 82 percent reduction in collisions.⁷ The system has been fully operational since January, and researchers with the Institute will track its reliability.

Another Western Transportation Institute project in Montana is underway along portions of old runways at the Lewistown airport. Inside a restricted access area, the reliability of several different wildlife detection systems is being tested. Horses and llamas roam the restricted area, where nine different animal detection systems from five different vendors are operating. Infrared cameras are in place to monitor whether the detection systems truly detect an animal. The idea is to see how the systems hold up under extreme weather conditions--particularly cold temperatures.

"It is quite important that these systems be reliable," Huijser said.

HABITAT LINKS

American Wildlands, a conservation group, also has spent decades working on wildlife crossings. Reducing roadkill on

⁴ *Wildlife-Vehicle Collision and Crossing Mitigation Measures: A Toolbox for the Montana Department of Transportation*, Western Transportation Institute, May 2007.

⁵ U.S. 93 Wildlife Mitigation Preconstruction Synthesis Final Report, Western Transportation Institute, January 2007.

⁶ <http://www.coe.montana.edu/wti/wti/display.php?id=145>

⁷ *Reliability of the animal detection system along U.S. Highway 191 in Yellowstone National Park, Montana*, Huijser, Camel and Hardy, 2005.

Bozeman Pass is the focus of a great deal of work done by the Craighead Environmental Research Institute and American Wildlands.

In 2001, researchers with the Craighead Institute recorded carcasses on the roadway, including 67 deer, eight black bears, eight raccoons, seven skunks, and several other animals, including a wolf and two mountain lions. All had been killed by vehicles. Bozeman Pass serves as a wildlife corridor that links up the Bridger and Gallatin ranges. Roads disrupt that corridor but several groups, including American Wildlands, MDT, the Gallatin Valley Land Trust, Sonoran Institute, Trust for Public Lands, Craighead Environmental Research, the Western Transportation Institute, and Montana Rail Link, have come together to improve the situation.⁸

The groups put together a plan that includes zoning protections, conservation easements, open space, and wildlife crossings. In 2003, Congress appropriated \$250,000 to the Bozeman Pass working group to continue working on the wildlife crossing issue. A series of animal crossing projects, including fences to funnel wildlife to existing culverts or an underpass have been discussed. This summer MDT completed work on a wildlife exclusion fence on Bozeman Pass around Bear Canyon. The department, through a contracted project, will continue to monitor the site.

Additional efforts on Bozeman Pass also continue to move forward, according to American Wildlands. In the fall, a program called "I Spy on the Pass" will kick off. With a growing number of people commuting between Livingston and Bozeman, drivers will be asked to record the wildlife or roadkill they see on or near the pass. A wildlife observation database will be set up online and those interested in learning more should watch the website [http://](http://www.wildlands.org/)

www.wildlands.org/.

MOLES, VOLES MUST CROSS

It's not just the "big" animals that are getting a little help on Montana's roads. Even shrews and rodents are getting some attention when it comes to roadway crossings. A four-lane highway is a formidable barrier for the tiny creatures, making them exceptionally vulnerable. Biologists are trying to determine how to help these critters cross in areas where highways have bisected their habitat. Mammal "ramps" are being added to culverts so when culverts are full of water, mice, weasels and even raccoons can still safely scamper. The Lolo South project, which expands Highway 93 from two lanes to four along about 45 miles from Lolo to Hamilton, cuts across a series of wetlands. Several culverts have been placed at the sites to encourage animal movement between the wetlands. Ten culverts spaced across about six miles of wetlands along Highway 93 are now being studied.

"Vole tubes" have even been added to some culverts to help the little rodents make a run for it. By placing tracking plates inside the tubes, researchers have found that voles make the most of the opportunity and photographic evidence demonstrated the culverts were used by 23 species, ranging from raccoons to red foxes.⁹

LONG-TERM PLANS

Wildlife crossings typically aren't considered unless they are done in conjunction with other highway repairs. The experts on wildlife crossings note that the projects are about enhancing public safety on area roadways. The crossings, however, require enormous political, social, and financial support.

⁸ Bozeman Pass wildlife linkage and highway safety study, Lance Craighead, April Craighead and Elizabeth Roberts, 2001.

⁹ Small mammal use of modified culverts on the Lolo South project of Western Montana, an update, Kerry R. Foresman, 2003



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October 2007						
	1	2 HB 49 special district study, Room 102, 10 a.m.	3	4 Energy and Telecommunications Committee, Colstrip, Isabel Bills Community Learning Center	5 Energy and Telecommunications Committee, Colstrip, Isabel Bills Community Learning Center	6
7	8	9 LFC Performance Measurement workgroups, 10 a.m. Legislative Finance Committee, Room 102, 1 p.m.	10 Legislative Finance Committee, Room 102, 8 a.m.	11	12	13
14	15	16 State-Tribal Relations Committee, Crow Agency Water Policy Committee	17 State-Tribal Relations Committee, Crow Agency Water Policy Committee	18	19 State Administration and Veterans' Affairs Committee, Room 102, 8:30 a.m.	20 State Administration and Veterans' Affairs Committee, Room 102, 8:30 a.m.
21	22	23	24	25	26	27
28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
November 2007						
				1	2	3
4	5	6	7	8 Law and Justice Committee Energy and Tele- communications Committee	9 Law and Justice Committee	10
11	12	13	14	15 Water Policy Committee	16 Water Policy Committee Children, Families, Health, and Human Services Committee	17
18	19	20	21	22	23	24
25	26	27	28 Legislative Audit Committee, Room 152	29 Legislative Audit Committee, Room 152	30 State Administration and Veterans' Affairs Committee	

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